

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 18410
[REDACTED]	)	
Petitioners.	)	DECISION
	)	
	)	

---

On August 24, 2004, the Income Tax Audit Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted](Petitioners), asserting income tax and interest in the amount of \$878 for the 2002 taxable year. The Notice advised the Petitioners that, if they disagreed with the deficiency determined by the Bureau, they could petition the Tax Commission for a redetermination.

On October 22, 2004, the Petitioners timely filed an appeal and petition for redetermination. An informal telephonic hearing was held on May 3, 2005.

This decision is based on the information contained in the Commission's files, information provided at the informal hearing, and discussions with the Petitioners' representative following the informal hearing. For the reasons set forth below, the Commission affirms the deficiency with interest updated through August 31, 2005.

**I.      FACTS**

The Petitioners are shareholders of [Redacted]. ([Redacted] is a national [Redacted] company with its headquarters in [Redacted] Idaho. [Redacted] entered into a contract for the sale of trademarks and goodwill for a total of \$3,000,000. [Redacted] treated \$1,800,000 as an expense which was reported under the cost of goods sold and deducted on its 2002 return. It treated \$1,200,000 as the sale of an intangible and amortized this amount over a 15 year period per Internal Revenue Code (IRC) § 197. Based on the wording of the Agreement, the auditor disallowed the

deduction and treated both the \$1,800,000 and \$1,200,000 as the sale of an intangible.

On June 9, 2005, the Tax Commission issued a Decision to [Redacted], upholding the Notice of Deficiency and treating the entire \$3,000,000 as the sale of an intangible. For an analysis of the treatment of the sale of intangibles, see the [Redacted]. Decision dated June 9, 2005, Docket number 18405.

The Petitioners protested the disallowance of the deduction which passed through to them as shareholders of the S Corporation.

## II. DECISION

WHEREFORE, the Notice of Deficiency Determination dated August 24, 2004, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the Petitioners pay the following tax, penalty, and interest.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2002	\$ 809	\$0	\$ 110	\$ 919
			TOTAL DUE	<u>\$ 919</u>

Interest is calculated through August 31, 2005, and will continue to accrue until paid.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the Petitioners' right to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2005.

IDAHO STATE TAX COMMISSION

---

COMMISSIONER

### **CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2005, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.

---